STATE OF CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY GRAY DAVIS, *Governor*

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MMCD Policy Letter 99-03

TO:
- [X] County Organized Health Systems Plans
- [X] Geographic Managed Care Plans
- [X] Prepaid Health Plans
- [X] Primary Care Case Management Plans
- [X] Two-Plan Model Plans

SUBJECT: LINGUISTIC SERVICES

PURPOSE

This policy letter provides clarification regarding Medi-Cal managed care plans' (hereafter referred to as Plans) contract requirements relative to the provision of cultural and linguistic services.

GOAL

To assure the limited English proficient (LEP) Medi-Cal Plan members equal access to health care services through the provision of high quality interpreter and linguistic services.

POLICY

I. Civil Rights Act of 1964

Title VI of the Civil Rights Act prohibits recipients of federal funds from providing services to LEP persons that are limited in scope or lower in quality than those provided to others. An individual's participation in a federally funded program or activity may not be limited on the basis of LEP. Since Medi-Cal is partially funded by federal funds, **all** Plans must ensure that all Medi-Cal LEP members have equal access to all health care services.

To comply with the Civil Rights Act of 1964, **all** Plans must develop and implement policies and procedures for ensuring access to interpreter services for all LEP members. (all LEP members mean all members who are limited English proficient, including those who speak a language other than one of the threshold languages defined below.) The Plan's procedures must include ensuring compliance of the subcontracted providers to these requirements. An option for ensuring subcontractors' compliance is via their subcontracts. In addition, Plan's procedures must ensure that LEP members will not be subjected to unreasonable delays in receiving appropriate interpreter services when the need for such services is identified by the provider or requested by the LEP member.

Interpreter services must be available on a 24-hour basis. This can be accomplished by on-site interpreters or by assigning a LEP member to a physician able to provide services in the member's language. In addition, Plans may employ bilingual or multilingual membership staff who can interpret for providers or use contracted community-based organization for interpreter services. If these face-to-face services are not feasible, Plans may use the telephone language lines for interpreter services. The intent of the contractual requirement is not to have Plans rely solely on telephone language lines for interpreter services. Rather, telephone interpreter services should supplement face-to-face interpreter services, which is a more effective means of communication.

Plans must not require, or suggest to LEP members, that they must provide their own interpreters. The use of family, friends, and particularly minors, may compromise the reliability of medical information. LEP members may be reluctant to reveal personal and confidential information to family members, friends or minors. In addition, family, friends and minors are not trained in interpretation skills. Use of such persons could result in a breach of confidentiality or reluctance on the part of beneficiaries to reveal personal information critical to their situations. In a medical setting, reluctance or failure to reveal critical personal information could have serious, even life threatening, health consequences. In addition, family, friends and minors may not be competent to act as interpreters, since they may lack familiarity with specialized terminology. However, a family member or friend may be used as an interpreter if this is requested by the LEP individual after being informed he/she has the right to use free interpreter services. The use of such an interpreter should not compromise the effectiveness of services nor violate the beneficiary's confidentiality. Plans must ensure that their providers document the request or refusal of language/interpreter services by a LEP member in the medical record.

II. Threshold Languages

Threshold languages in each county are designated by the Department of Health Services. These are primary languages spoken by LEP population groups meeting a numeric threshold of 3,000 eligible beneficiaries residing in a county. Additionally, languages spoken by a population of eligible LEP beneficiaries residing in a county, who meet the concentration standard of 1,000 in a single ZIP code or 1,500 in two contiguous ZIP codes, are also considered threshold languages for a county.

Plans with threshold language requirements must provide the following:

1. Interpreter services at key points of contact (medical and nonmedical) for members whose language proficiency is in one of the threshold languages. Medical points of contact include face-to-face or telephone encounters with providers (physicians, physician extenders, registered nurses, pharmacist, or other personnel) who provide medical or health care advice to members. Plans are encouraged to maintain a provider network (at a minimum, primary care providers) with sufficient number of bilingual and multilingual providers and provider staff who speak some of the threshold languages. Plans must list the language capabilities of these providers in their network directories (see Policy Letter 98-12). Plans must also ensure access to interpreter services at all network pharmacy sites during pharmacy service hours. At a minimum, telephone interpreter services must be available in the threshold languages if requested by a LEP member for pharmacy counseling on drug dosages, drug interactions, contraindications, adverse reactions, etc.
   Nonmedical points of contacts include membership services, appointment services, and member orientation sessions.
2. Procedures for referring members to culturally and linguistically appropriate services. Plans must ensure that network providers are aware of these services.
3. Signage and written materials which have been translated into threshold languages.

III. Assessing and Monitoring Effectiveness of Linguistic Services

Some Plans have the following contract requirements:

1. "Assess, identify, and report the linguistic capabilities of interpreters or bilingual health plan and contracted staff."

2. "Develop and implement standards and performance requirements for the provision of linguistic services and monitor the performance of the individuals who provide linguistic services."

Plans with these contract requirements must implement procedures to monitor the language capability of providers listed in the provider directory as speaking specific languages. At a minimum, there must be documentation of whether it is the provider or the office staff who has the language skill(s), and this information must be updated at least annually. Plans must also implement performance requirements for interpreters. At a minimum, Plans must develop procedures for assessing interpreters' capabilities. These may include, but are not limited to, the following:

1. Written or oral assessment of bilingual skills.
2. Documentation of the number of years of employment the individual has as an interpreter and/or translator.
3. Documentation of successful completion of a specific type of interpreter training programs (i.e., medical, legal, court, semi-technical, etc.).
4. Other reasonable alternative documentation of interpreter capability.

Plans must also continuously evaluate the effectiveness of its linguistic services program. Plans' review and monitoring of its linguistic services must have a direct link to the Plans' quality improvement processes. Procedures for continuous evaluation of the effectiveness of linguistic services may include, but are not limited to, analysis of grievances and complaint logs regarding communication or language problems and assessment of member satisfaction with the quality and availability of interpreter services.

Plans are strongly encouraged to centralize the coordination and monitoring of linguistic services within one department or by a coordinator. This coordinator or department would oversee the educational program(s) developed for Plan staff, providers, and provider staff on interpreter services, implementation of bilingual proficiency guidelines, and the coordination and monitoring of interpreter services.

IV. Member Informing

All Plans must inform their members of the availability of linguistic services. At a minimum, the membership material must include information regarding the member's right to:

1. Interpreter services at no charge when accessing health care. For example, at the time appointments with primary care providers are made, interpreter services should be offered to LEP patients.
2. Not use friends or family members as interpreters, unless specifically requested by the member. The Plan or plan provider must document member's refusal to accept the services of a qualified interpreter.
3. Request face-to-face or telephone interpreter services during discussions of complex medical information such as diagnoses of complex medical conditions and accompanying proposed treatment options; explanations of complicated plans of care or discussions of complex procedures.
4. Receive informing documents translated into threshold languages (Refer to Translation of Written Informing Materials, MMCD Policy Letter 99-04).
5. File grievances or complaints if linguistic needs are not met.

DISCUSSION

Guidelines for Determining Bilingual Proficiency

Plans are encouraged to use the following guidelines for ensuring appropriate bilingual proficiency in nonmedical and medical settings. These guidelines apply to both on-site and telephone interpretation.

- Nonmedical Key Points of Contact

  It is important for persons providing interpretation in nonmedical environments to have conversational fluency in both the target language and English. This includes speaking in a grammatically correct manner for statements and questions, comprehension of spoken language related to both health care settings and Plan member services. Adequate vocabulary includes fluent use and accurate pronunciation of managed care terminology, forms of address, greetings, directions, time of day, days of the week, names of the months, Plan services process, and personnel. Nonmedical interpreters are able to assist limited English proficient members to complete forms, in English, appropriate to the specific setting or circumstance. Individuals interpreting in nonmedical settings should also be able to precisely explain nonclinical consent forms (transfer of medical records, admission forms, advance directives).

- Medical Key Points of Contact

  Persons providing language services at medical points of contact should have all of the language skills required of those who interpret at nonmedical points of contact listed above, as well as proficiency related to clinical settings. Persons who interpret in medical settings should be fluent in medical terminology in both languages (anatomical terms, body processes and physiology, symptoms, common disease names and processes, common etiologic terms, clinical procedures, instructions, and treatment plans). These persons should have the appropriate training to take or assist with gathering information for an accurate medical history; they should also be able to assist providers by interpreting clinically related consent forms.

Guidelines for Plans' Staff and Providers' Education

It is important for the Plan managers, staff, and providers to participate in a cultural and linguistic education and awareness program. Such a program provides an understanding of the role of skilled interpretation in the provision of high quality health care services to LEP members. It enhances the Plan's ability to meet the cultural and linguistic contract requirements and serves to remind network providers of their obligation to bridge communication gaps. Quality interpreter services provided in a culturally competent manner enhances the ability of the members to comply with treatment programs, thereby enhancing the potential for good outcomes and reducing the potential for legal liabilities. Educational programs may be implemented through newsletters, one-on-one instruction, the provider manual, workshops, or other methods as determined by the Plan.

The educational and informational program may include, but is not limited to, the following:

1. The Department of Health and Human Service's Guidance Memorandum on Title VI Prohibition Against National Origin Discrimination--Persons with Limited-English Proficiency (Enclosure I).
2. Information on Plan and provider legal vulnerability with respect to inadequate provision of interpreter services. The National Health Law Institute's report on "Ensuring Linguistic Access in Health Care Settings: Legal Rights and Responsibilities," 1998, Executive Summary (Enclosure II).
3. Senate Bill 1840 amended the Section 1259, Health and Safety Code, (Enclosure III).
4. A list of resources to assist medical interpreters (e.g., glossaries and dictionaries).

5. Information on appropriate skills for persons who interpret, e.g., medical terminology, interactive skills, ethics related to confidentiality, and accuracy.
6. Lists of training and testing resources for maintaining and enhancing interpreter skills.
7. Tips or training for providers on how to work effectively with interpreters.

If you have any questions regarding this policy letter, please contact your contract manager.

Susanne M. Hughes
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Enclosures